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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/684,938	Applicant(s) HARTGROVE, RONALD W.	
	Examiner Ruth C Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 10, 11, 13 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5, 6, 10, 11, 13, 23-25, 27, 28 and 32 is/are rejected.
- 7) ☒ Claim(s) 4, 21, 22 and 29-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

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DETAILED ACTION

1. The indicated allowability of claim 24 is withdrawn in view of the newly discovered reference(s) to French Patent Document FR 2 681 653. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 3, 5, 6, 10, 11, 13, 23, 24, 25, 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Document FR 2 681 653 A1 (FR '653) in view of Mangano (US 5,722,260).

FR '653 discloses a jewelry article comprising a setting (1), a first body portion (4) and a second body portion (2). The setting has a mounting portion (outer surface of 1). The first body portion has a holding portion (inner surface of 4). The holding portion holds the mounting portion except from at least one direction (Fig. 2). The second body portion couples with the first body portion (Figs. 1, 2, 5, 6, 8 and 9). The second body portion holds the mounting portion from the at least one direction when coupled to the first body portion when the finger of the user is inserted into the article of jewelry (Figs. 1, 2, 5, 6, 8 and 9). The body portions are separable from one another in the at least

one direction to break the coupling between the body portions by non-rotational movement of the second body portion relative to the first body portion (Figs. 1, 2, 5, 6, 8 and 9). The resilient arms (3) serve to keep the second body portion (2) engaged with the first body portion (4). FR '653 fails to provide a reliable means to releasably retain the first body portion engaged with the second body portion when repeated use of the resilient arms to change the setting deforms the arms. Mangano teaches a jewelry article (10) comprises a setting (20), a first body portion (40) and a second body portion (50). The setting has a mounting portion (70,22,24). The first body portion has a holding portion (46,48). The holding portion holds the mounting portion except from at least one direction (Figs. 2A-4C). The second body portion magnetically couples with the first body portion (Figs. 2A-2C and 4A-4C). The second body portion holds the mounting portion from the at least one direction when magnetically coupled to the first body portion (Figs. 2A-2C and 4A-4C). The body portions are separable from one another in the at least one direction to break magnetic coupling between the body portions (Figs. 2A-2C and 4A-4C). Mangano teaches a jewelry article having first and second body portions where the second body portion holds the mounting portion from the at least one direction when magnetically coupled to the first body portion.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant invention to have the first and second body portions magnetically coupled as taught by Mangano in the jewelry article disclosed by FR '653. Doing so, provides a secure connection between the first body portion and the second portion to retain the setting. One would have been motivated to make such a combination because the

resilient arms of FR '653 tend to deform after repeated use of the resilient arms to change the setting that could lead to loss of the setting. However, if a magnetic connection in accordance with the teachings of Mangano is used it provides a reliable means to maintain the first and second body portions in engagement with the setting in order to prevent accidental loss of the setting.

Mangano teaches that at least one of the body portions comprises a magnetic element (32,34) disposed thereon.

The first and second body portions taught by Mangano are magnetically coupled together to form a ring, a bracelet, an earring, a chocker, a bezel, a pendant (40,50) or a broach. While FR '653 teaches that the first and second body portion are coupled together to form a ring (Figs. 1, 5, 6, 8 and 9), a bracelet, an earring, a chocker, a bezel, a pendant or a broach.

Mangano teaches that the means for magnetically coupling the first and second means comprises at least one magnet (32,34) (Figs. 2A-2C and 4A-4C).

FR '653 also discloses that the first body portion includes a first half (4) of the ring having a first surface (inner surface). The holding portion defines a negative area in the first surface in which the mounting portion of the setting positions (Figs. 1-9). The second body portion includes a second half (2) of the ring having a second surface magnetically coupled to the first surface in accordance with the modification made above.

FR '653 discloses a jewelry article comprising a setting (1), first means for holding the setting except from at least one direction (4), second means for holding the

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setting from at least one direction (2), means for coupling the first and second means for holding the setting (inner surface of 3) and means for separating the first and second means in the at least one direction to break the coupling between the first and second means by non-rotational movement of the second means relative to the first means (outer surface of 3). FR '653 fails to provide a reliable means to releasably retain the first body portion engaged with the second body portion when repeated use of the resilient arms to change the setting deforms the arms. As mentioned above, Mangano teaches a jewelry article having first and second means where the second means holds the setting from the at least one direction when magnetically coupled to the first means. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant invention to have the first and second means magnetically coupled as taught by Mangano in the jewelry article disclosed by FR '653. Doing so, provides a secure connection between the first body portion and the second portion to retain the setting. One would have been motivated to make such a combination because the resilient arms of FR '653 tend to deform after repeated use of the resilient arms to change the setting that could lead to loss of the setting. However, if a magnetic connection in accordance with the teachings of Mangano is used it provides a reliable means to maintain the first and second body portions in engagement with the setting in order to prevent accidental loss of the setting.

FR '653 also discloses that:

- The jewelry article further comprises means for preventing tilting of the setting (inner surface of the first and second means) in the magnetically coupled first and second means (Figs. 1-9).

- The means for separating the first and second means comprises means for pulling apart (3) the first and second means.

Mangano teaches that the means for magnetically coupling the first and second means comprises at least one magnet (32,34).

FR '653 discloses a jewelry article comprising a setting (1), a first body portion (4) and a second body portion (2). The setting has a mounting portion (outer surface of 1). The first body has a holding portion (inner surface) (Figs. 1-9). The holding portion holds the mounting except from at least one direction (Figs. 1-9). The second body portion couples with the first body portion (Figs. 1-9). The second body portion holds the mounting from the at least one direction when coupled to the first body portion (Figs. 1-9). The body portions are separable from one another in the at least one direction to break coupling between the body portion (Figs. 1-9). The first body portion has an outer surface (Figs. 1-9). The holding portion defines a negative area in the outer surface in which the mounting portion of the setting positions (Figs. 1-9). The second body portion includes a cap (2) having a bottom surface coupled to the outer surface of the first body portion and a decorative portion of the setting positioned through the hole when the body portions are coupled together to hold the setting (Figs. 1-9). The resilient arms (3) serve to keep the second body portion (2) engaged with the first body portion (4). FR '653 fails to provide a reliable means to releasably retain the first body portion engaged

with the second body portion when repeated use of the resilient arms to change the setting deforms the arms. As mentioned above, Mangano teaches a jewelry article having first and second means where the second means holds the setting from the at least one direction when magnetically coupled to the first means. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant invention to have the first and second means magnetically coupled as taught by Mangano in the jewelry article disclosed by FR '653. Doing so, provides a secure connection between the first body portion and the second portion to retain the setting. One would have been motivated to make such a combination because the resilient arms of FR '653 tend to deform after repeated use of the resilient arms to change the setting that could lead to loss of the setting. However, if a magnetic connection in accordance with the teachings of Mangano is used it provides a reliable means to maintain the first and second body portions in engagement with the setting in order to prevent accidental loss of the setting.

Claim 27 is being rejected with a combination of the rejection of claims 6 and 23 since FR '653 discloses a ring.

4. Claim 3 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '653 in view of Mangano as applied to claim 6 above, and further in view of Indiveri et al. (US 6,305,192 B1).

FR '653 and Mangano were combined in paragraph 3 to reject the limitations of claim 6 and 27. Mangano teaches the use of a magnetic element to keep the first body portion magnetically coupled to the second body portion but fails to disclose that the

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magnetic element is a rare earth element. However, Indiveri demonstrates an article of jewelry (100) having a pair of magnetic elements (106,108). The magnetic element being used is preferably a rare earth magnet (C. 4, L. 33-36). The rare earth magnets provide the advantage of being light weight in comparison to the force of their magnetic attraction (C. 4, L. 33-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have a rare earth magnet used in jewelry as demonstrated by Indiveri in the jewelry article disclosed by FR '658 and modified by Mangano. Doing so, provides a lightweight in comparison to the force of their magnetic attraction. One would have been motivated to make such a combination because having a lightweight jewelry article is highly sought in the jewelry industry because the jewelry users prefer jewelry article of lighter weight and a reduction in weight of the jewelry article would have been obtained, as demonstrated by Indiveri

Allowable Subject Matter

5. Claim 26 is allowed.
6. Claims 4, 21, 22 and 29-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 2-6, 10, 11, 13 and 21-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Elliot (US 899,296), Eberle et al. (US 3,115,758), Estrin et al. (US 3,307,375) and Guerrero et al. (US 4,416,074) are cited to show state of the art with respect to jewelry having mechanical connection that could be replaced with magnetic connections to obtain the claimed invention.

Beck (US 3,639,949), Nagano (US 6,101,843), Hoffman (US 6,594,871 B1), Tschetter (US 6,688,139 B2) and Marandola, Jr. (US 2002/0139142 A1) are cited to show state of the art with respect to jewelry using a magnetic connection.

Hernandez (US 4,783,974), Green (US 6,470,708 B1) and Plumly (US 6,718,797 B2) are cited to show state of the art with respect to having jewelry using mechanical connections or magnetic connections interchangeably.

Schlenger et al. (US 5,806,346) is cited to show state of the art with respect to having jewelry with permanent magnets selected from rare earth magnets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
April 18, 2005